

Notice of Allowability

Application No.

10/615,426

Examiner

Ari M. Diacou

Applicant(s)

WASSERBAUER, JOHN GILMARY

Art Unit

3663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed 12-05-2005.
2. ☒ The allowed claim(s) is/are 1-12.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Damian Wasserbauer on 12-19-2005.

2. The application has been amended as follows:

- On page 3 of the remarks, line 14, regarding claim 1, delete the word "said"

Response to Arguments

3. Applicant's arguments, see page 8, line 10 through page 11, line 10, filed 12-5-2005, with respect to claims 1, 6 and 10 have been fully considered and are persuasive. The rejection of claims 1 and 6 under 35 U.S.C. 102(b) has been withdrawn.

4. Applicant's arguments, see page 6, lines 8-11, filed 12-5-2005, with respect to the figures have been fully considered and are persuasive. The objection to the drawings has been withdrawn.

5. Applicant's arguments, see page 6, line 12 through page 8, line 9, filed 12-5-2005, with respect to claim 10 have been fully considered and are persuasive. The rejection of claim 10 under 35 U.S.C. 112 ¶ 1 has been withdrawn.

6. Applicant's arguments, see page 6, lines 1-7, filed 12-5-2005, with respect to the election requirement have been fully considered but are moot.

Election/Restrictions

7. Upon further consideration, claim 1 is generic and allowable. Accordingly, the restriction requirement as to the encompassed species is hereby withdrawn and claims 2-5, 7-9, and 11-12, directed to the species drawn to figures 2-5, 7-9, and 11-12 are no longer withdrawn from consideration since all of the claims to this species depend from or otherwise include each of the limitations of an allowed generic claim.

However, in accordance with the Official Gazette notice, dated March 26, 1996 (1184 O.G. 86), claims 13-16, directed to the method of manufacturing a semiconductor device, remain withdrawn from consideration because they do not depend from or otherwise include all the limitations of the allowable product. Claims 13-16 are therefore NOT rejoined.

In view of the above noted withdrawal of the restriction requirement as to the linked species, applicant(s) are advised that if any claim(s) depending from or including all the limitations of the allowable generic linking claim(s) be presented in a continuation or divisional application, such claims may be subject to provisional statutory and/or

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nonstatutory double patenting rejections over the claims of the instant application.

Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

8. This application is in condition for allowance except for the presence of claims 13-16 to an invention non-elected without traverse. Accordingly, claims 13-16 have been cancelled.

Allowable Subject Matter

9. Claims 1-12 are allowed.

10. Regarding claim 1, the prior art does not teach or make obvious the use of

- a longitudinal waveguide integral to said optical cavity connecting input and output ports whereby said longitudinal waveguide is configured with a downward step in reflectivity at input and output ports of the optical amplifier.

Wherein the ports and portions are claimed as different features. For a disclosure of the difference, e.g. see [¶ 0009] [¶ 0042] of the amended specification.

within the context of claim 1 taken as a whole.

Conclusion

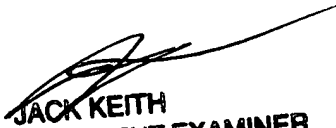
11. The prior art which is cited but not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ari M. Diacou whose telephone number is (571) 272-5591. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on (571) 272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AMD 12/19/2005


JACK KEITH
SUPERVISORY PATENT EXAMINER